II.
STUDIES, STATISTICS AND PROBLEM AREAS AS REPORTED BY THE PROPERTY TAX ADMINISTRATOR

The Property Tax Administrator of the State of Nebraska has presented certain information to the Commission which constitutes part of the basis of this plan. The information consists of the *1997 Report: Problem Areas* (found in its entirety in Appendix "A"), and the 1997 Indicated Levels of Value. The Property Tax Administrator has also provided the Commission with information regarding the "quality" of assessment practices in the form of the Coefficient of Dispersion ("COD") and the Price Related Differential ("PRD") for each Indicated Level of Value by class of property within each county. Finally, the information presented also includes a more detailed analysis of assessment practices which demonstrates the degree of uniformity and proportionality in the form of "Profiles" by class of property within each county. The COD, PRD and Profile by class of property within each county may be found in Appendix "B."

III.
PROBLEM AREAS AS INDICATED BY THE COMMISSION'S EXPERIENCE IN RESOLVING DISPUTES

A.
The Commission's Experience

The Commission, between January 6, and July 25, 1997, has heard and decided 227 real property appeals, 24 exemption appeals, 5 personal property appeals, 2 motor vehicle appeals, 2 appeals from decisions of Agricultural and Horticultural Land Valuation Boards, and 61 cases as part of the statewide equalization process. In addition to hearing and deciding these 321 cases, the Commission has also held public hearings regarding this plan. The Commission, during the

course of these hearings, has conducted hearings outside of Lincoln on 31 days, exclusive of travel time.

B.
Effect of the Commission's Actions

The results of the hearing process must be considered from two perspectives: hearings held as part of the statewide equalization process; and hearings held regarding valuation changes. The Commission held 61 "show cause" hearings as part of the statewide equalization process. As a result of those hearings, the Commission issued orders adjusting valuations by a class or subclass of property to 30 counties. Those orders have been reported by the Commission in the publication entitled *1997 Statewide Equalization Proceedings.*

The orders which were issued should be considered against the background of the entire assessment process. For tax year 1997, there were 934,293 parcels of locally assessed taxable property.[1] (This compares to 932,254 parcels for tax year 1996.)[2] Prior to the statewide equalization proceedings the total assessed value of all locally assessed property in the state was $62,006,035,484.[3] As a result of the orders issued as part of the statewide equalization proceedings, the total assessed valuation increased to $62,342,153,226.[4] The difference is a .54% change in the assessed value of all locally assessed real property in the state.

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[1] *1997 Abstract Parcel Counts*, Property Tax Division, July 17, 1997. Includes real property and improvements on leased land. Does not include motor vehicles, personal property, centrally assessed property or exempt property.

[2] *1996 County Abstracts*. Includes real property and improvements on leased land. Does not include motor vehicles, personal property, centrally assessed property or exempt property.

[3] *State of Nebraska - Property Tax Division County Detail of School Summations, Excluding Class 6's, Abstracts*, May 21, 1997.

[4] *State of Nebraska - Property Tax Division County Detail of School Summations, Excluding Class 6's, Abstracts*, June 24, 1997.

The Commission considered a number of appeals in the first seven months of 1997. These appeals find their origin in the 932,254 parcels of real property which were identified in the state in 1996. County assessors issued notices of valuation changes for some of those parcels, which in turn resulted in the filing of 13,004 protests with local county boards of equalization. Those 13,004 protests results in only 291 real property appeals to the Commission for tax year 1996. Of those 291 appeals, the Commission found in favor of the "county" in 97 cases, and in favor of the "taxpayer" in 127 cases. Included in the 127 cases which resulted in judgment in favor of the taxpayer were 43 decisions where the county "confessed judgment."[5] The cases where the taxpayer prevailed resulted in a total reduction in the assessed valuation of the property in the amount of $15,700,468. More than one-third (35%) of the valuation changes ordered by the Commission occurred as a direct result of a county re-examining the valuation issue, and deciding that the county had, in fact, overvalued the subject property. Finally, these 45 cases were also responsible for 54% of the total reduction in assessed values.

C.
Problem Areas Identified Through This Experience

The Commission's experience in hearing these appeals has emphasized the critical nature of the problem areas previously identified in the *1997 Statewide Plan of Equalization* (*1997 Plan*). The problem areas find their origin in the duties of the county assessor. Those duties have been summarized as follows:

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[5] See Neb. Rev. Stat. §77-1510.01 (Reissue 1996).

(1) locating and identifying all taxable property in the jurisdiction;
(2) making an inventory of all taxable property, including quantity, quality and important characteristics;
(3) classifying each property and determining the extent to which it is taxable;
(4) determining the market value for each property;
(5) calculating the taxable value of each property;
(6) preparing and certifying the assessment roll of the entire jurisdiction;
(7) notifying the owners of the taxable value of their property;
(8) defending the valuation during protests and subsequent appeals.[6]

There are 93 county assessors in this state who are responsible for all of the duties set forth above. The full, accurate and complete execution of these duties is essential, since most political subdivisions rely on property taxes to fund operations. The essential nature of these duties is also heightened when political subdivisions face property tax lids. As these lids become effective, the assessment process will come under tremendous pressure to account for every taxable item of property, whether real, personal, or otherwise, in order to provide all possible revenue for the political subdivisions.

The importance of these duties must also be considered from the taxpayers perspective. When problem areas are identified in the assessment process, public confidence in that process is eroded. When these problems are repeatedly identified and no remedial action is undertaken, public confidence is further eroded. That erosion of public confidence is justified when the problem areas result in a lack of uniform and proportionate assessments, since those problem areas result in a shift in the tax burden. This lack of public confidence is further justified during periods of higher levels of taxation. Nebraska was identified as having the seventh highest tax for residential real property for both low and high value homes in the entire nation in 1996.[7]

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[6] International Association of Assessing Officers, *Property Assessment Valuation*, 1996, p. 2.

[7] Minnesota Taxpayers Association, *50-State Property Tax Comparison Study*, 1996, p. 3.

Finally, county assessors must be provided training, education, support staff and equipment in order to allow them to fairly and accurately perform their duties. As noted in the *1997 Plan,* such support is sadly lacking in many counties. The situation has not appreciably improved during the first seven months of 1997.

IV.
METHODS OF ANALYSIS AND DEFINITION OF TERMS

The single most useful tool provided to the Commission to date is found in the County Profiles. Nothing in the Commission's experience, or for that matter in the information presented by the Property Tax Administrator or by public comment, has reduced the importance of those county profiles as a tool to measure the quality of assessment practices through the indicated level of value. The profile also allows the Commission to measure the uniformity, and proportionality of assessments within each county.

The quality of the information contained in the profiles is, of course, only as good as the quality of the information which is the basis for the statistical studies. Problem areas were identified in the reporting of information during the appeal process, the statewide equalization proceedings, and the public hearing process which led to the formulation of this plan. The Property Tax Administrator has recognized these problem areas, and addressed them in Directive 97-3, which is set forth in its entirety in Appendix "C."

A common understanding of the analytical tools is essential when considering these County Profiles. The Commission adopted certain standards for evaluating the statistical analyses in 1996 in General Order No. 5. These standards are promulgated by the International

Association of Assessing Officers (IAAO). The mission statement of the IAAO is:

> "The International Association of Assessing Officers (IAAO) is a nonprofit, educational association. Its mission is to provide leadership in accurate property valuation, property tax administration, and tax policy throughout the world. The IAAO offers courses, workshops, and seminars, performs research and offers technical assistance.
>
> "The IAAO's members subscribed to a Code of Ethics and Standards of Professional Conduct and to the Uniform Standards of Professional Appraisal Practice.

The analytical tools of the IAAO include the median, the mean, the aggregate, the median absolute deviation, the range of ratio, the price related differential, the coefficient of dispersion, the standard deviation, and the coefficient of variation, each of which is defined in Appendix "D."

The Commission, during the public hearing phase of the preparation of this plan, was presented with several concerns regarding the adopted standards. The Commission was asked to either relax the adopted standards, or in the alternative, to also adopt the I.A.A.O. Standards regarding the funding and staffing of county assessors' offices. The Commission has seriously considered both requests. The Commission has concluded, however, that the standards should remain as adopted in 1996. First, these standards are professionally accepted mass appraisal standards. Second, the standards, which are effective through 1999, provide an objective standard of review of the quality of assessment practices that are uniform throughout the state. Third, the standards are not a "moving target," which had been a problem in the past. Finally, these standards enable the public, the Administration, the Legislature, the Property Tax Administrator, and the Commission to determine if there is, in fact, progressive improvement in

the quality of assessment practices.

These standards were adopted for a three year period in order to provide, for the first time, continuity and predictability in standards of review. To revise these standards when they have been effective for less than one year would defeat the entire purpose of adopting them in the first place. Finally, although the standards regarding staffing and funding of county assessors' offices is certainly desirable, the Commission has no authority to direct the taxpayers, the Legislature, or the county boards of equalization to implement such standards. This is particularly true since implementation would require the expenditure of tax revenues. In conclusion, the Commission cannot support the relaxation of the standards regarding the quality of assessment practices, but does support the adoption of standards regarding staffing and funding of county assessors offices. The appropriate forum for implementation of county assessor office standards, however, is either before the county boards or before the Legislature.

V.
THE COMMISSION'S CONCLUSIONS

The Commission, in approaching this statewide plan of equalization, considered the historical problems in the quality of assessment practices as shown by previous articles, papers and reports as set forth in the *1997 Statewide Plan of Equalization*; historical trends in the quality of assessment practices such as the COD and PRD; the statistical studies and reports presented by the Property Tax Administrator; the *1996 Report: Problem Areas* submitted by the Property Tax Administrator; the *1997 Report: Problem Areas* submitted by the Property Tax

Administrator; and the Commission's experience in resolving disputes.

The Commission, in light of this information has again reached the same conclusions regarding the appraisal practices of this state which were made in the *1997 Statewide Plan of Equalization*. Those conclusions are as follows:

1. The focal point of the entire assessment process is the county assessor.

2. In many counties, the county assessor's office is severely under funded and understaffed.[8]

3. It is extremely difficult to assess property uniformly and proportionately as required by the Nebraska Constitution when a county assessor's office is severely understaffed and under funded. In counties where the assessor holds more than one office, these problems are only exacerbated.

4. Given the underlying facts, the starting point for any improvement in the assessment process requires that the office of the county assessor be provided with sufficient funding, training, guidance and staff.

5. Once this funding, training, guidance and staffing is provided, the assessment of all property must be made in accordance with "professionally accepted mass appraisal techniques." Since these techniques are not set forth with any degree of specificity in either statute or regulations, these techniques must be reduced to a written form, i.e., set forth in rules and regulations, at both the state and local level.

6. The actions of the assessor should be evaluated in light of these rules and regulations. These rules and regulations must include the adoption of objective standards for the statistical review of the assessor's assessment practices.

7. County boards of equalization must be trained in the use of these objective standards of review, and should use these standards as the only basis for review during the protest process.

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[8] Property Tax Division of the Department of Revenue. *1996 Report: Problem Areas*, 1996, p. 1.

8. Once county boards of equalization are trained in this type of review, and implement it, the statutory provisions which govern subsequent review assume the intended degree of effectiveness.[9]

VI.
PROBLEM AREAS

The Commission, in light of the conclusions set forth above, identified the following problem areas in the *1997 Plan*. These problem areas have not been adequately addressed to date. Since these problem areas directly impact every aspect of the assessment function, it serves no purpose to address other problem areas at this time. The problem areas are set forth in order of priority.

A.
MANY ASSESSOR'S OFFICES ARE UNDER FUNDED AND UNDERSTAFFED

The Property Tax Administrator's Report relates that many assessors' offices are under funded and understaffed.[10] This lack of adequate funding and staffing results in assessments that are not uniform and proportionate, as required by the State Constitution. (This conclusion is again supported by the statistical studies presented by the Property Tax Administrator.) The lack of funding and staffing not only creates an unequal tax burden, but also results in lost revenues to the counties. These lost revenues arise from the widespread problems of inability to: (1) perform maintenance of the assessment rolls; (2) conduct "pick-up work;" and (3) hire appraisal

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[9] *See, e.g., Neb. Rev. Stat. §77-1511 (Reissue 1995), which states* "The commission shall affirm the action of the board unless evidence is adduced establishing that the action of the board was unreasonable or arbitrary. . . "

[10] Property Tax Division of the Department of Revenue. *1996 Report: Problem Areas*, 1996, p. 1.

companies or other experts to assist in achieving a higher degree of uniformity and proportionality in assessment levels.

The maintenance of assessment rolls is the most widespread problem in the state. Each year the county assessor must adjust values of all property in accordance with changes in market value. When such adjustments are deferred while the market value is increasing, the county loses the income attributable to that increased valuation. When such adjustments are deferred while the market value is decreasing, the taxpayer is bearing an improper part of the tax burden.

"Pick-up work" is the "annual process of listing for assessment the real property added to the roll in the last year, and includes new construction and modifications to existing real property."[11] The Property Tax Administrator has concluded, "It may be noted that in some counties the practice of adding this property to the assessment roll is nonexistent. Failure to annually update the assessment roll with pick-up work leads to substantial undervaluation within the assessment jurisdiction, not to mention violation of the requirement of uniform valuation and non-commutation of tax provisions of the Nebraska Constitution."[12] This conclusion has been supported by testimony before the Commission during the appeal hearings, the statewide equalization proceedings, and public hearings. "Pick-up work" can only be accomplished where the county assessor's office is adequately funded and staffed. An additional critical element in the process is the support of the county assessor's efforts by the county board of equalization. Unfortunately, many county assessors do not enjoy any significant degree of support from their county boards.

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[11] Property Tax Division of the Department of Revenue, *1996 Report: Problem Areas*, 1996, p. 2.

[12] Property Tax Division of the Department of Revenue, *1996 Report: Problem Areas*, 1996, p. 2.

County assessors often require the assistance of appraisal companies or other experts in order to conduct appraisals, appraise unique or special properties, or to improve the uniformity and proportionality of assessments when the office is understaffed. When such efforts cannot be made, the county loses income attributable to the lack of investment in the assessor's office. The Commission has also heard specific instances of the county assessor expending significant sums of money to value such specialized property, only to have the county board of equalization disregard the information, and reduce the valuation. Such practices must stop.

County boards who do not support a county assessor's efforts may be recognized by the minimal funding allocated to the county assessor's office. This lack of funding results in a lack of adequate staffing and computer equipment. Without this staffing and equipment, the assessor cannot maintain the "property record cards" which reflect the location and characteristics of the taxable property within the county. As time goes by, the inability to perform this essential first step in the assessment function results in an assessment roll that is increasingly inaccurate. As assessments become progressively more inaccurate, the lack of uniformity and proportionality progressively increases. Furthermore, public confidence in the process is eroded. At some point, the county, willingly or unwillingly, is forced to fund a countywide reappraisal. Taxpayers are then presented with a notice of valuation change which contains a dramatic increase in the assessed value of property. The public, which has little if any confidence in the process, becomes outraged. The resulting public outcry lays the blame at the door of elected officials. The following year's funding of the assessor's office is substantially reduced, and elected officials who are perceived as responsible for "raising taxes" are not retained in office.

A "new" county assessor, whose office is underfunded and understaffed, is unable to perform the essential functions of the office, or even maintain the level of accuracy of the property inventory, and the cycle begins again. Until this cycle is broken, progressive improvement in the quality of the assessment process is difficult if not impossible to attain.

Unfortunately, the counties which have the greatest problem in this area are either unable or unwilling to provide the necessary funding for the county assessor's office. This lack of funding has two direct results: first, the county loses revenue which is properly due to it; and second, on appeal, a party who raises the issue of a lack of uniform and proportionate valuations, and supports it with appropriate evidence, may have his or her assessment substantially reduced, thereby further lowering the revenue due the county. Given these circumstances, the inability to perform these essential functions constitutes a significant problem area in the assessment practices of this state. It is also difficult to perceive how *ex-officio* assessors have the time to address all of the functions of the county assessor's office and still serve in several other capacities.

B.
DETERMINATION OF ACTUAL VALUE

Property in the State of Nebraska is valued through a specific set of constitutional provisions and state statutes. Valuation of residential and commercial/industrial real property, for example, must comply with Neb. Rev. Stat. §77-201 (Reissue 1996) which states ". . . all real property in this state, not expressly exempt therefrom, shall be subject to taxation and shall be valued at its actual value." Neb. Rev. Stat. §77-112(1) (Reissue 1996) states, "Actual value of

real property for purposes of taxation shall mean the market value of real property in the ordinary course of trade. Actual value may be determined using professionally accepted mass appraisal techniques, including, but not limited to: (a) Comparison with sales of real property of known or recognized value, . . . " If a county assessor is using sales of real property of a known or recognized value for purposes of determining actual value, then there must be a sufficient number of sales of that type of property within the county. Those sales are then analyzed using statistical methods of analysis. However, for any conclusions to be drawn regarding the accuracy of appraisals, a minimum number of sales is required. The number of sales (the "sample") must be "representative of the population."[13] It is essential to remember that using too few sales results in conclusions that may not be statistically reliable.[14]

The number of sales of a particular class or subclass of property within a county has been a problem area for many years. For example, the Syracuse Tax Study reported that only 45 of the 93 counties had sufficient sales of commercial or industrial property upon which to base ratio studies.[15] In 1996, the Property Tax Division, in the report entitled *1996 Indicated Levels of Value*, reported on the indicated levels of value for three classes of property for each county: residential, commercial/ industrial, and agricultural. Of the 279 indicated levels of value, 62, or 22%, could not be determined since there were too few sales within the county. The majority of these determinations were for commercial/industrial property. This information was also reported by the Property Tax Division in its statistics reported as required by Neb. Rev. Stat.

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[13] International Association of Assessing Officers. *Standard on Ratio Studies*, 1990, p. 8.

[14] International Association of Assessing Officers. *Standard on Ratio Studies*, 1990, p. 8.

[15] Michael Wasylenko and John Yinger. *Nebraska Comprehensive Tax Study*, 1988, p. 10.

§77-1327(6) (Reissue 1996). The Commission's experience to date has only reinforced these conclusions. Again, this problem has resulted in a tremendous erosion of public confidence in the system.

For tax year 1997, however, an additional problem has been identified. The reported indicated levels of value included information regarding the valuation of certain subclasses of property such as vacant land, mobile homes, acreages, and recreational property. The Commission heard on many occasions that such inclusion skewed the results of the profiles. However, upon closer examination, many county assessors had not availed themselves of various methods of addressing these subclasses. Some county assessors had not "coded" these subclasses into separate areas on the profile. Some county assessors had not established separate market areas, or supplemented their sales with sales from similar market areas. It should be noted, however, that many county assessors had taken steps to identify the "problem areas" within their county. Several had in fact taken action which the Property Tax Division will investigate for statewide application. It is critical to recognize that these solutions are difficult to implement where the county assessor's office is underfunded and understaffed. However, given Directive 97-3, some of these problems will be addressed. Directives of the Property Tax Administrator alone, however, cannot stimulate counties to provide additional funding to county assessors' offices. Problems related to under funding and under staffing will therefore persist.

C.
VALUATION OF AGRICULTURAL PROPERTY

The valuation of agricultural property has a unique set of problems which were also recognized in the *1997 Plan*. These problems include: (1) identifying current land use; (2) lack of uniform soil conversions; and (3) a lack of sufficient sales in subclasses of property. A county assessor, in maintaining the assessment rolls, must identify the current land use for agricultural and horticultural property. Problems here include lack of funding and staffing, and, in many counties, the absence of county wide zoning. The assessor, without the necessary tools and resources, cannot annually update the land use. The lack of a current and complete assessment roll engenders the problems of lost revenues to counties and taxpayers receiving an assessment which is neither uniform nor proportionate.

The lack of a uniform soil conversion makes it extremely difficult to determine whether assessments are uniform and proportionate across county lines. The use of so-called "green-belt" valuations engenders its own set of problems. A principle problem is the use to which the statutes authorizing "greenbelt" valuations are put.[16] The Property Tax Administrator has specifically requested authorization to collect information from counties regarding how the "non-greenbelt" value is determined. This higher value represents another source of income to the county if the property is sold for a non-agricultural use within three-years of the assessment.[17]

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[16] *See*, Neb. Rev. Stat. §77-1343 (1990 Reissue), *et seq.*

[17] *See*. Neb. Rev. Stat. §77-1348 (1995 Supp.), as amended by L.B. 1039 (1996 Session).

These valuation issues, which constitute significant problem areas as to agricultural and horticultural land, again result in the county being deprived of tax revenues, and further result in some taxpayers receiving assessments which are neither uniform nor proportionate. Therefore, in order to promote the uniform and proportionate of assessment of property, these problem areas must be addressed.

D.
OTHER PROBLEM AREAS

There are other problem areas in the assessment process. These problem areas may be summarized as follows: classification of property, sales verification procedures, valuation of leased real property, and valuation of leased personal property, such as farm equipment which may or may not have situs in Nebraska. Action must be taken regarding these problem areas. These problems, however, can only be adequately addressed after the significant problems areas set forth above have been resolved.

E.
Problem Areas Identified During the Public Hearing Process

The Commission heard testimony from county assessors, other elected officials and taxpayers during the public hearing process. Common themes heard during that process are set forth below, not necessarily in order of priority.

1. Profiles should be prepared by market area where the county assessor has established a market area within the county.

2. For counties where special agricultural valuation ("greenbelt") has been implemented, profiles should either be based on purely agricultural sales or dispensed with entirely.

3. All counties should be made to implement the 1995 Soil Conversion. (This problem was referred to in every public hearing held by the Commission, and was also the subject of one appeal from an Agricultural and Horticultural Land Valuation Board which mandated such implementation.)

4. Identification of leasehold values.

5. Valuation of recreational properties.

6. Funding of county assessors' offices.

7. "Accuracy"of the 1995 soil conversion: capability of soils when topsoil is removed, classification of HoB2 soils with HoA and HoB; etc.

8. Valuation of the first acre of agricultural land home sites.

9. "Irrigation" value of parcel where well is located on separate parcel of land.

10. Use of I.A.A.O. standards for C.O.D. and P.R.D. when standards for staffing and funding of the appraiser's office are not implemented or followed.

11. Elimination of "outliers" from statistical samples.

12. Danger of relying too heavily on standards, as that practice may lead to

chasing sales."

13. More training and education for county assessors.

14. Training of county boards of equalization.

15. Dissatisfaction with orders of the Commission adjusting values by class or subclass by a percentage.

16. Valuation of mobile homes and the inclusion of those mobile homes in the residential profile.

17. Use of commercial sales and the difficulty of extracting "blue sky" and personal property from the sales "price."

18. Sales verification by the Property Tax Division and its agents for commercial and agricultural sales.

19. Creating separate county assessor offices where currently an elected official is the *ex-officio* county assessor.

20. Valuation of land subject to periodic, although not frequent, flooding.

21. Effect on land values of property purchased by persons from outside the local area.

The Commission has determined that some of the concerns are well-founded. However, as noted above, the primary problem areas must be addressed first. While these reported problem areas must be addressed in the long-term, short-term improvements must be made in the essential functions of the county assessors' offices first.